



Montana Alcohol Beverage Control

Presentation for
House Business & Labor Committee
and
Senate Business, Labor & Economic Affairs
Committee

January 9, 2013

Montana is a Control State

Montana Code Annotated (16-1-101)

It is the policy of the State of Montana, through the Montana Department of Revenue, to effectuate and ensure the entire control of the manufacture, sale, importation, and distribution of alcoholic beverages within the state.

Overall purpose of the code:

- Protect the welfare, health, and safety of the people of Montana.
- Promote temperance, create orderly markets, and aid in the collection of taxes.

Alcohol Beverage Control

Montana is one of 17 states and 2 counties known as "Control Jurisdictions."

These jurisdictions control the sale of distilled spirits and, in some cases, beer and wine through government agencies at the wholesale level.

As a control state, Montana believes that moderation can best be achieved by neither promoting nor encouraging the consumption of alcohol but, instead by controlling it.

The purpose of control is to make liquor available to those adults who choose to drink responsibly, not to promote the sale of liquor.

By participating in the marketplace, we are able to serve our citizens with a broader and more flexible range of policy options to promote moderation in the consumption of alcoholic beverages and reduce alcohol abuse.

Another value of the control distribution system is that it operates solely on the revenue derived from the sale of alcoholic beverages in its jurisdiction. No property, state, or other local taxes are used to support control distribution system operations.

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The Control States



Alabama, Idaho, Iowa, Maine, Michigan, Mississippi, Montana, New Hampshire, North Carolina, Ohio, Oregon, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Wyoming, Montgomery County (MD), Maryland Worcester County (MD)

Control Benefits to Montanans

Promote moderation

- Control systems promote moderation in consumption. Annual statistical data clearly shows that per capita consumption of distilled spirits is approximately 15.4% lower in control states than in open states.

Support of alcohol programs

- Revenues from liquor taxes are distributed to the credit of the Department of Public Health and Human Services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency.

Improve overall safety of communities through education, regulation and enforcement

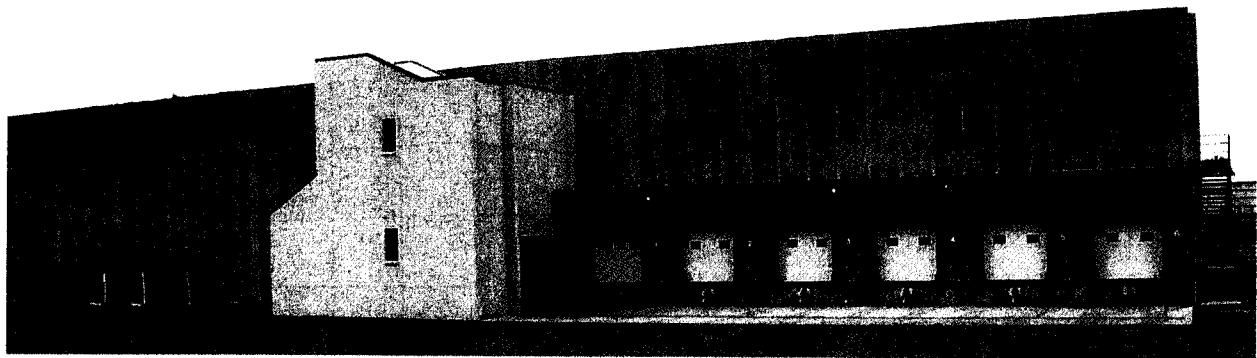
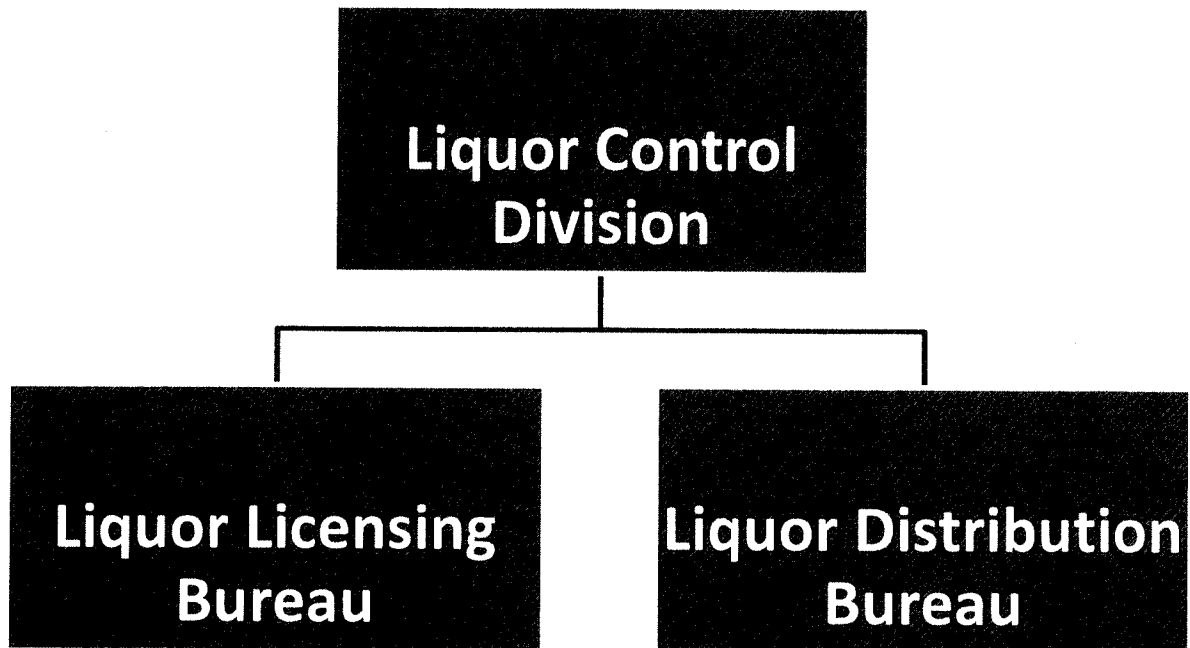
- The control state system continues to provide a regulatory environment that is better able to deter the ever-present risks and costs to the individual and the community of alcohol abuse.
- At one level, the uniform enforcement of applicable laws is made far more effective in a control state, where there are ordinarily fewer sales outlets and more importantly, where the economic incentive to violate those laws is greatly reduced.
- At another level, the control system itself serves both as a visible symbol of the public commitment to moderation and as a vehicle for the promotion of alcohol education and awareness programs to support that commitment.

Major source of revenue

- Liquor sales provide a source of revenue to the State of Montana. The state uses these revenues to help fund state-government operations and to support several government programs.

Department Structure for the Liquor Control Division

The Liquor Control Division is composed of two bureaus, Liquor Licensing and Liquor Distribution.



Liquor Licensing Bureau

The Liquor Licensing Bureau is responsible to protect the public health and safety in the consumption of alcohol by properly licensing alcohol beverage businesses in a fair and uniformed manner. The bureau is generally responsible for overseeing and enforcing compliance with the state's liquor laws in respect to the manufacturing, distributing and retailing of alcoholic beverages, as provided for in the Montana Alcoholic Beverage Code (Title 16).

Duties and responsibilities include:

- Oversee and issue over 4,700 licenses for bars, taverns, restaurants, manufacturers, and distributors any Montana businesses relating to alcoholic beverages including wineries, breweries and distilleries;
- Annually renew these licenses;
- Review individual applicants for new licenses, transfer of ownership and transfer of location, including financial document information, and premises to determine applicant and premise meet standard requirements of the law;
- Review investigative reports from local law enforcement and Department of Justice and public complaints; and
- Ensure compliance with Montana's liquor laws.



Alcohol Beverage License Types

On-Premises Retail (Bars, Taverns and Restaurants)
Off-Premises Retail (Convenient Stores and Grocery Stores)
Table Wine Distributor/Table Wine Importer
Beer Wholesaler/Beer Importer
Alcohol Beverage Manufacturers
Connoisseur's License Beer and Wine

On-Premises Retail Licenses (Bars, Taverns and Restaurants)

This type of licensee may sell and serve alcoholic beverages for on-premises consumption or for off-premises consumption in the original packages, excluding restaurant beer and wine licenses who may only sell for on-premises consumption to patrons that order food.

Entities that primarily provide meals with table service and who are licensed to sell beer at retail or beer and wine at retail may upon approval by the department be granted a catering endorsement. This allows the business to cater a special event for on-premises consumption that would not otherwise be licensed to.

Types

- All-Beverages Licenses*
 - ◆ City (Quota)
 - ◆ County (Quota)
- Beer Licenses**
 - ◆ City (Quota)
 - ◆ County (No Quota)
- Restaurant Beer and Wine Licenses (Quota)

Additional On-Premises License Types

- Fraternal or Veterans Club Licenses – All-beverages/beer (No Quota)*
- Golf Course Beer and Wine License (No Quota)
- Resort Retail All-beverages Licenses (No Quota)*
- Airport All-beverages Licenses (No Quota)*
- Passenger Carrier Licenses (No Quota)
- Special Beer & Wine License Nonprofit Arts Organizations (No Quota)
- Seasonal Beer & Wine License Yellowstone Airport (Specific Purpose)
- MT Heritage Retail Alcoholic Beverage Licenses (Specific Purpose)
- Special Permits (Available to Certain Non-profit Entities, University System & certain Sports Leagues – Limited by Type of Entity)

**Gaming is available with these licenses with minor exceptions. (A Floater License issued after July, 2007 which resulted from a lottery is not eligible to offer gambling.)*

***Gaming is available with these licenses with minor exceptions. (New beer licenses issued after 1997 may not be used for premises where gambling is conducted.)*

Off-Premises Retail Licenses (Convenient Store, Grocery Stores and a Drugstore licensed as a pharmacy)

This type of licensee may sell beer and table wine for off-premises consumption only. No consumption or tasting can occur on the licensed premises.

Types

- Beer License (No Quota)
- Wine License (No Quota)
- Beer and Wine License (No Quota)
- Sacramental Wine License - A sacramental wine license can be issued to an establishment located in Montana that sells sacramental wine at retail to rabbis, priests, pastors, ministers or other officials of churches or other established religious organizations exclusively for their off-premises use as a sacramental wine or for other religious purposes.
- Agency Liquor Stores - Not a license, but contractual franchise agreement. Sell distilled spirits, fortified wines and table wine (Quota)

Manufacturer Licenses

This type of licensee can manufacture, sell and distribute products they manufacture. A manufacturer licensed in the state that ships directly to retailers or directly to consumers where allowed, is required to pay the tax on such products and provide the appropriate reporting forms to the department.

Types

- Small Brewery License – This type of licensee can manufacture, sell and deliver beer from their licensed premises to any beer wholesaler, retail licensee or to the public.
 - ◆ Must produce less than 10,000 barrels of beer a year.
 - ◆ May provide samples of beer that were brewed and fermented on the premises in a sample room located on the licensed premises.
 - ◆ The samples may be provided with or without charge between the hours of 10 a.m. and 8 p.m.
 - ◆ No consumption and possession before 10 a.m. or after 9 p.m.
 - ◆ No more than 48 ounces of beer can be sold or given to an individual customer during a business day.
- Brewery License – This type of licensee can manufacture, sell and deliver beer from their licensed premises to any beer wholesaler, retail licensee or to the public. The licensee can provide samples but without charge.
- Domestic Winery License – This type of licensee can manufacture, sell and deliver wine from their licensed premises to any table wine distributor, retail licensee or to the public.
 - ◆ Wineries located in Montana can provide samples of wine they produce in a sample room located on their licensed premises.

- **Foreign Winery or Importer Registration** – A foreign winery registered in the state can ship to licensed table wine distributors or licensed connoisseurs that have provided the winery with the appropriate Department of Revenue issued labels. A wine importer can only ship to licensed table wine distributors.
- **Out-of-State Winery License** – This type of licensee can ship limited quantities directly to retail liquor licensees, licensed table wine distributors and/or licensed connoisseurs. The limit on direct shipments of wine to licensed retailers is 4,500 cases annually.
- **Distilled Spirits License/Domestic Distillery License** – This type of licensee can manufacture, distill, rectify, bottle, process and store liquor for sale to the department. Domestic distilleries may not self-distribute their products.
- **Microdistillery License** – A microdistillery is a distillery located in Montana that produces 25,000 gallons or less of liquor annually. A microdistillery may provide, with or without charge, up to 2 ounces of liquor that it produces at the microdistillery to consumers for consumption on the premises per day. They can also sell for off-premises consumption not more than 1.75 liters to an individual per day.

Beer Wholesaler and Table Wine Distributor Licenses

This type of licensee purchases beer and table wine either from a licensed brewery, winery, importer, beer wholesaler or table wine distributor for distribution and sell to retail licensees. This type of licensee may not sell to the public or allow consumption on their licensed premises.

Types

- Beer Wholesaler License
- Table Wine Distributor License
- Beer Wholesaler and Table Wine Distributor License

Connoisseur Licenses

A connoisseur may receive direct shipments of beer and/or wine from an out-of-state licensed or registered winery or out-of-state licensed brewery for the person's own consumption and not for resale.

Types

- Beer
- Wine
- Beer and Wine

Special Permits

A tax-exempt organization, non-profit organizations, accredited postsecondary school or professional sporting contests may apply for a special permit to sell beer and table wine to patrons at the special event. The beer or wine must be consumed at the time and within the enclosed area.

Licensing Fees

License Type	Annual Fee
On-Premises Retail	
● County License	\$400
● City License	\$400 - \$800
● Beer License	\$200
♦ <i>With Wine Amendment</i>	\$200
● Restaurant Beer and Wine License	\$400
Plus one-time fees, as follows:	
○ <i>Seating of 60 persons or less</i>	\$5,000
○ <i>Seating of 61 -100 persons</i>	\$10,000
○ <i>Seating of 101 persons or more</i>	\$20,000
● Catering Endorsement – All-Beverages License	\$250
● Catering Endorsement – Beer License	\$200
● Veterans Club License	
♦ <i>County License</i>	\$250
♦ <i>City License</i>	\$250-\$650
● Golf Course License	
♦ <i>Beer/wine</i>	\$400
♦ <i>One-time fee for non-municipal courses</i>	\$20,000
Off-Premises Retail	
● Beer	\$200
● Wine	\$200
Special Permits	
● Most Special Permits - \$10/day for each day of the event	
● Sports Leagues - \$1,000/year for the specified season of play	
Wholesaler/Distributor License	
● Beer Wholesaler	\$400
● Wine Distributor	\$400
● Sub-warehouse	\$400
Manufacturer License	
● Brewery	\$500
● Small Brewery	\$200
● Winery	\$400
♦ <i>License Renewals</i>	\$200
● Foreign Winery Registration	
♦ <i>Based on cases imported</i>	\$0-400
● Distillery	\$600
Connoisseur's License	
● Beer	\$50 (\$25 renewal)
● Wine	\$50 (\$25 renewal)
● Beer and Wine	\$100 (\$50 renewal)

Quota System

- Quota system has been in place since 1947
- There are two types of quota areas: city and county
- Quota system for incorporated towns and counties
 - ◆ **All-beverage licenses**
 - Incorporated towns - based on population within city limits
 - Counties – based on population within county limits less population in incorporated towns.
 - ◆ **Beer licenses** (can add a wine amendment)
 - Incorporated cities – based upon population within the city limits
 - Counties – no limit

City Quota Area (City licenses can be located within the corporate city limit and within a distance of 5 miles from the corporate limits.)

All-Beverage License Quota Amounts

- Population 500 or less = 2 licenses
- Population 501 - 3,000 = 3 licenses for first 1,000 inhabitants plus 1 for each additional 1,000 inhabitants
- Population 3,001 or more = 5 licenses for first 3,000 inhabitants plus 1 for each additional 1,500 inhabitants

Beer License Quota Amounts

- Population 500 or less = 1 license
- Population 501 - 2,000 = 1 license for every 500 inhabitants
- Population 2,001 or more = 4 licenses for first 2,000 inhabitants, 2 licenses for the next 2,000 inhabitants and 1 additional license for every additional 2,000 inhabitants

Restaurant Beer and Wine (RBW) License Quota Amounts

- Population 5,000 or less = 80% of beer quota
- Population 5,001– 20,000 = 160% of beer quota
- Population 20,001 – 60,000 = 100% of the beer quota
- Population 60,001 or more = 80% of the beer quota

County Quota Area

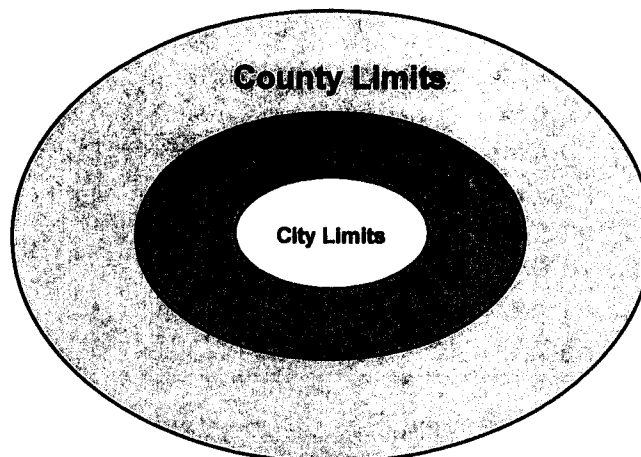
All-Beverage License Quota Amounts

All populations: 1 license for 750 inhabitants of the county after excluding the population of incorporated cities and incorporated towns in the county. County All-Beverage Licenses can be located anywhere in the county except within the boundaries of the incorporated cities and town and within a 5 miles radius.

Beer License Quota Amounts

None.

Quota Area



Quota Licenses Issued (As of August 2012)

On-Premises All-Beverages Licenses

● Total Licenses Issued	1,498
● Total Quota	1,208

On-Premises Beer Licenses

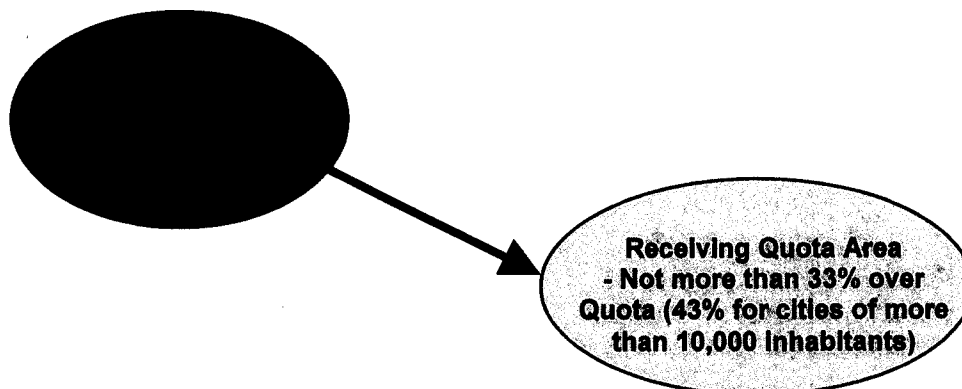
● Total Licenses Issued	441
● Total Quota	466

Restaurant Beer/Wine Licenses

● Total Licenses Issued	239
● Total Quota	474

Source: August 2012 Quota Sheet

Floating Licenses Between Quota Areas [16-4-204, MCA]



General Provisions

- Only All-beverages Licenses may be floated
- Must still meet Public Convenience & Necessity
- Floated licenses may not be transferred to another person for 5 years
- Floated licenses are not eligible to be floated again

Lottery All-Beverage Floater Licenses

- Liquor statutes provide a mechanism for all-beverage licenses to float from an existing location that is technically over quota to a location that is technically under quota.
- As population fluctuates, the number of quota licenses is adjusted.
- This year, based on the increase in population, 1 all-beverage "floater" license became available for Billings; as well as, 1 new all beverage license in Liberty County and 1 new all beverage license in Broadwater County. If more applicants apply then number of licenses available, the lottery rules come into effect.

Requirements for Lottery All-Beverage Floater Licenses

- Applicants cannot own an existing all-beverage license at the time of application.
- Applicants must provide a letter of credit of \$100,000.
- Applicants can apply for only one lottery a year.
- Successful applicants must open the business within 12 months of the lottery.
- Plus the gambling privilege is removed from the license.

On and Off-Premises License Ownership Requirements

Individual Applicants

- Applicant may not possess an ownership interest in more than one All-Beverages License.
- Applicant may not possess an ownership interest in an Agency Liquor Store.
- Applicant or applicant's immediate family is without financing from or affiliated to a manufacturer, importer, bottler or distributor of alcoholic beverages.
- Applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments.
- Applicant is current with all Montana taxes.
- Applicant is not under 19 years of age.

Business Entity Applicants

- Any individual with financial ownership of 10% or more must meet the requirements of an individual applicant.
- Any individual who has control over the operation of the license must meet the requirements of an individual applicant.
- Each person who shares in the profits or losses meets the requirements of an individual applicant.
- Business is authorized to do business in Montana and current in Montana taxes.
- The applicant provision does not apply to a Passenger Carrier License.

Manufacturer, Importing and Wholesaler/Distributor License Requirements

Individual Applicants

- For Wholesaler/Distributor, does not possess an ownership interest in any establishment licensed for retail sales, or manufacture of alcoholic beverages.
- For Manufacturer and importers, does not possess an ownership interest in any establishment licensed for retail sales or wholesale/distributor.
- Does not possess an ownership interest in an Agency Liquor Store.
- Applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored.
- Applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments.
- Applicant is current with all Montana taxes.
- Applicant is not under 19 years of age.

Business Entity Applicants

- Same as Business Entity Applicants for On-Premises Licenses.

Joint Process with Department of Justice – Gambling

- The Department of Revenue and the Department of Justice have a partnership between gambling and liquor licensing to streamline the licensing process.
 - ◆ Joint application process when the applicant is applying for both a liquor license and gambling license.
 - ◆ The Department of Justice provides investigation and auditing services under a Memorandum of Understanding.

Licensing Application Processing Statistics FY2012 (July 1, 2011 to June 30, 2012)

- | | |
|---|-------|
| ● Total number on-premises applications approved | 218 |
| ◆ Includes transfers of licenses, new licenses, transfer of locations, etc. | |
| ● Average number of days to approve | 67 |
| ● Total number all types of applications approved | 287 |
| ◆ Includes on-premises, off-premises, distributors, manufacturers, etc. | |
| ● Average number of days – all applications | 56 |
| ● Total number of special permits issued | 455 |
| ● Total number of renewals | 4,917 |

Protested Applications

Public Convenience and Necessity Protests

- Only for original licenses and transfers of location
- Must receive a sufficient number of protests
 - ◆ Protests must equal 25% of the number of quota all-beverages licenses in the area located but not less than 2 protests.
 - ◆ Only applies to either on-premises beer or all-beverages licenses
- If requisite number of protests are received the hearing will be held in the county where the proposed premises are located

Requirements to Issue a License 16-4-203, MCA

- Evidence indicates that the issuance of an original license or transfer of location will “materially promote the public’s ability to engage in the licensed activity.”
- The issuance will materially promote the public’s ability to engage in the licensed activity if:
 - ◆ The applicant’s history and experience demonstrate the capacity to operate the proposed license in a lawful manner;
 - ◆ The application for the premises of the proposed location is consistent with the public’s demand or probable demand for the licensed activity that presently exists or is reasonably expected to exist within the next 5 years;
 - ◆ The application for the premises at the proposed location contributes to the public’s ability to participate in the licensed activity; and
 - ◆ The application for the premises at the proposed location is consistent with adopted or pending planning, annexation, and zoning ordinances of local governments that confer or will confer jurisdiction over business and developments such as the proposed license.

Denial of License 16-4-405, MCA

- If at least one protest is received but not the number of protests required for Public Convenience and Necessity, then a §16-4-405 hearing will be held.
- A license may not be issued if the department finds from a hearing that:
 - ◆ The welfare of the people residing or of retail licenses located in the vicinity of the premises for which the license is desired will be adversely and seriously affected;
 - ◆ The applicant or the proposed premises for licensing fail to meet the eligibility or suitability criteria;
 - ◆ A possible reason for denial listed in a conditional approval letter has been verified; or
 - ◆ The purposes of Montana Beverage Code will not be carried out by the issuance of the license.

Alcohol Code Violations

- Upon a written verified complaint of a person, the Department of Revenue will request the Department of Justice to investigate a complaint.
- Upon reviewing the Department of Justice's investigation report or an admission from a licensee or receiving a local law enforcement agency's investigation report, the Department of Revenue may at its discretion take one or more of the following actions:
 - ◆ Reprimand the licensee,
 - ◆ Proceed to revoke the license of the licensee,
 - ◆ Suspend the license for a period of not more than 3 months,
 - ◆ Refuse to grant a renewal of the license after its expiration, or
 - ◆ Impose a civil penalty not to exceed \$1,500.
- All actions taken by the Department of Revenue are subject to the opportunity for a hearing under the Montana Administrative Procedures Act.

The most common Alcohol Beverage Code violations are:

- Sale to a minor
- Open after hours
- Serving after hours
- Undisclosed ownership interest
- Alteration of premises without prior approval
- No management agreement
- Non-use without prior approval

License Revenue

Consists of Licensing Fees, Annual Renewal Fees and Violation Revenue

FY2005	\$1,768,806
FY2006	\$2,091,179
FY2007	\$1,836,286
FY2008	\$3,155,184*
FY2009	\$2,291,039
FY2010	\$2,242,500
FY2011	\$2,289,747
FY2012	\$2,210,701

**Increase mainly due to issuance of New Restaurant Beer and Wine licenses based on 2007 legislation plus timing of collections renewal revenue in 2007 was extremely low.*

Miscellaneous Provisions

- Minimum Price Requirements – Distilled spirits may not be sold below the minimum posted price for a product.
- Retail Sale Hours – Alcoholic beverages may not be sold between the hours of 2:00 a.m. and 8:00 a.m.
- Proximity to Churches and Schools – No retail license may be issued whose premises are within 600 feet of a church or school.
- Purchase of Product by Retailers – All retailers must purchase product from either an Agency Liquor Store, a Licensed Wholesaler/Distributor, Licensed Winery or Brewery.
- Responsible Alcohol Sales and Service Act – Requires all licensees and their employees that sell or serve alcoholic beverages receive responsible alcohol sales and service training by a state approved training provider. *(New from the 2011 legislative session)*

Taxation of Alcoholic Beverages

Distilled Spirits (Liquor)

The pricing on distilled spirits and fortified wines include both an excise tax and a license tax. The appropriate tax rate is determined by the total number of proof gallons the company manufactured, distilled, rectified, bottled, or processed and sold nationwide in the preceding calendar year. Listed below are the rate schedules.

- Liquor Excise Tax

<u>Rate</u>	<u>Production</u>
16%	More than 200,000 proof gallons
13.8%	50,001 to 200,000 proof gallons
8%	20,000 to 50,000 proof gallons
3%	Less than 20,000 proof gallons

- Liquor License Tax

<u>Rate</u>	<u>Production</u>
10%	More than 200,000 proof gallons
8.6%	50,001 to 200,000 proof gallons
2%	50,000 or less proof gallons

Beer

- Based upon barrels of beer produced annually (barrel = 31 gallons)
 - ♦ Up to 5,000 barrels \$1.30/barrel
 - ♦ 5,001 to 10,000 barrels \$2.30/barrel
 - ♦ 10,001 to 20,000 barrels \$3.30/barrel
 - ♦ Over 20,000 barrels \$4.30/barrel

Wine

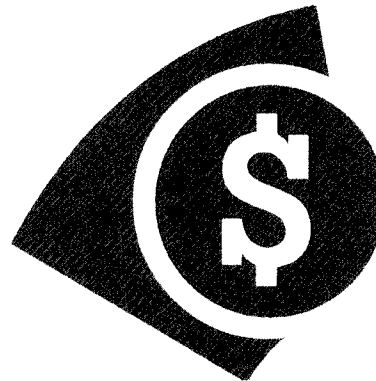
- 27 cents per liter of wine
- 3.7 cents per liter of hard cider



Tax Revenue

Liquor Excise Tax

FY2005	\$ 9,609,132
FY2006	\$10,651,853
FY2007	\$11,716,614
FY2008	\$12,512,799
FY2009	\$12,989,225
FY2010	\$13,020,876
FY2011	\$13,411,139
FY2012	\$14,291,424



Liquor License Tax

FY2005	\$6,007,218
FY2006	\$6,658,036
FY2007	\$7,322,884
FY2008	\$7,820,502
FY2009	\$8,118,270
FY2010	\$8,138,240
FY2011	\$8,381,042
FY2012	\$8,931,713

Beer Tax

FY2005	\$3,856,202
FY2006	\$3,910,939
FY2007	\$4,026,969
FY2008	\$4,119,676
FY2009	\$4,150,186
FY2010	\$4,055,805
FY2011	\$3,964,264
FY2012	\$4,050,779



Wine Tax (includes Hard Cider)

FY2005	\$2,286,861
FY2006	\$2,441,272
FY2007	\$2,439,496
FY2008	\$2,700,346
FY2009	\$2,847,450
FY2010	\$2,859,927
FY2011	\$3,002,803
FY2012	\$3,122,989

Liquor Distribution Bureau

The Liquor Distribution Bureau is responsible to efficiently maintain a regulated channel of distribution with an emphasis on customer service by fulfilling the public demand of distilled spirits and fortified wine through Agency Liquor Stores.

The bureau is generally responsible for overseeing and managing the effective receipt and distribution of alcoholic beverages in the state.

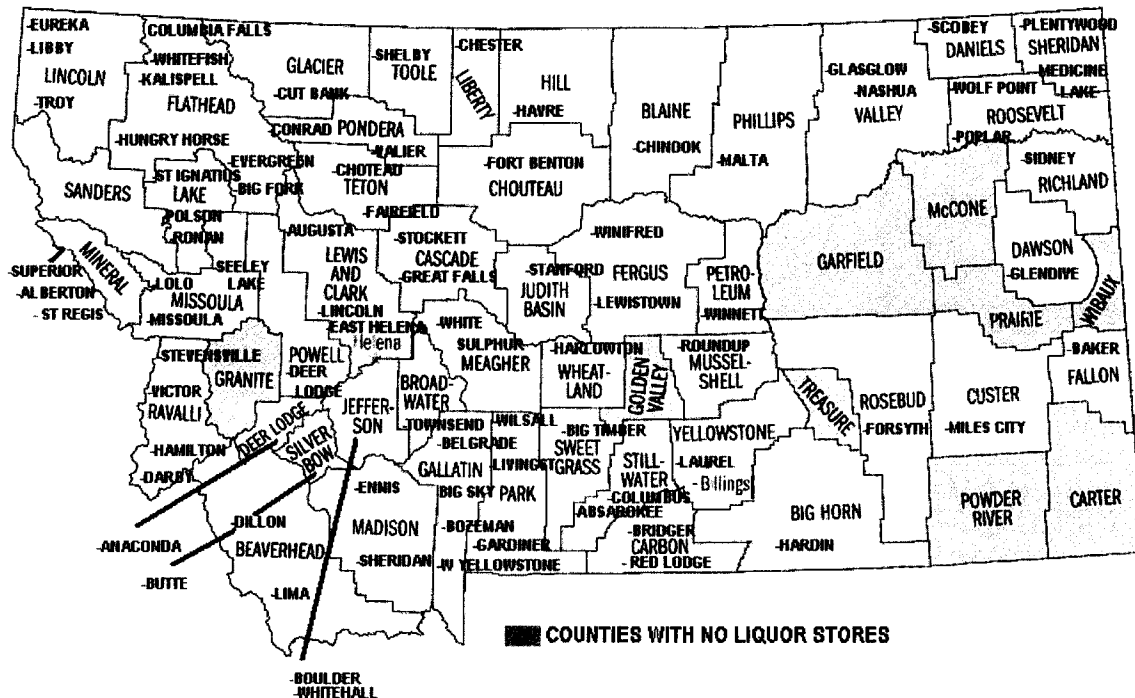
Duties and responsibilities include:

- Operate the state liquor distribution center – over a \$110 million dollar business;
- Order, maintain and monitor liquor warehouse inventories in a manner that balances state interests with liquor distribution outlet customers;
- Establish and post statutorily-defined prices for all liquor products distributed through the liquor warehouse; and
- Establish, maintain and monitor relationships, compliance issues, and state contracts with 96 separate agency liquor stores.



Agency Liquor Stores

There are currently 96 Agency Liquor Stores located throughout the state of Montana. These Agency Liquor Stores and any new Agency Liquor Store is operated by an agent.



Number of Agency Liquor Stores in a Community [16-2-109, MCA]

The number of agency liquor stores that may be located in a community will vary with the population in a community. The number of stores that may be located in a community may vary as proscribed in 16-2-109, MCA. For example there may be:

- One agency liquor store if the population is 0 – 12,000;
- Two agency liquor stores if the population is 12,001 – 52,000;
- Three agency liquor stores if the population is 52,001 – 92,000;
- Four agency liquor stores if the population is 92,001 – 132,000; or
- Five agency liquor stores if the population is 132,001 – 172,000; and
- One additional agency liquor store within increments of population of 40,000 inhabitants above 172,000.

Location Limitations [16-2-109, MCA]

- New stores may not be located in a community that is within 35 miles to another community with an agency liquor store unless the population permits.
- In communities that may have more than one agency liquor store, they may not be located closer than a 1-mile radius of each other.
- May not be in or adjacent to a grocery store in communities greater than 3,000.

Selection of an Agent [ARM 42.11.310]

- Selected according to competitive procedures under the Montana Procurement Act.
- For stores in communities with less than 3,000 population, an agent will be selected according to procedures for competitive sealed proposals as defined in ARM 2.5.602 and the agents commission will be initially established at 10% of adjusted gross sales.
- For stores in communities with a population of 3,000 or more, according to procedures for competitive sealed bids as defined in ARM 2.5.601 and the agents commission will be initially set at the percentage bid by the lowest responsive bidder.

Contracts may be Reassigned [16-2-101, MCA]

- An agent may assign an agency franchise agreement to a person who, upon approval of the department, is named agent in the agency franchise agreement, with the rights, privileges, and responsibilities of the original agent for the remaining term of the agency franchise agreement.

Commissions and Discounts

Agency Liquor Stores have 3 different commissions and discounts.

- **Commission Percentage Discount**
- **Volume of Sales Discount**
- **Weighted Average Discount**
 1. **Commission Percentage Discount**
 - 10% for communities in population 3,000 or less
 - Established by competitive bidding in communities with 3,000 or more in population
 - Can be adjusted every 3 years based on 2 methods:
 - Current commission is less than the average % being paid to stores with similar sales volume
 - If agent can demonstrate cost beyond the agents control
 2. **Volume of Sales Discount (*HB 348 from the 2001 legislative session*)**
 - The percentage rate is based upon annual dollar volume of sales in the previous fiscal year:
 - Rates are adjusted on an annual basis based on sales volume.
 - For FY13, a volume of sales of \$574,379 or more = 0.875%
 - For FY13, a volume of sales less than \$574,379 = 1.5%
 - Threshold adjusted annually (2009 legislative change) - An inflation factor is used to calculate the new volume of sales cutoff based on the 25 liquor products with the highest quantity of cases sold in the previous calendar year.
 3. **Weighted Average Discount**
 - Intended to compensate agency stores for the 8% full case lot discounts required to provide to all-beverage licensees.
 - Determined by each store's ratio of the dollar value of discounts given by the store's gross sales during fiscal year 1994.

Operation (16-2-101, MCA)

- Agency Liquor Stores must purchase all alcoholic beverages except for beer and table wine from the State Liquor Warehouse.
- Agency Liquor Stores may sell liquor, fortified wine and table wine. Table wine may be purchased from a distributor without an additional license.
- Agency Liquor Stores must be open for the sale of alcoholic beverages for a minimum of 6 hours per day between 8 a.m. and 2 a.m.
- Agency Liquor Stores must be closed Sundays, Mondays and legal holidays. They may be open on Mondays that are not legal holidays, if 51% of the all-beverage licensees in the community sign a petition to allow.
- Agency Franchise Agreements are effective for a 10-year period and must be renewed at the existing commission rate for additional 10-year periods if the requirements of the agency franchise agreement have been satisfactorily performed.
- Agency Liquor Stores are required to sell liquor to licensees at the state posted price for bottle purchases and at a reduction of 8% discount from posted price for full case purchases of regular listed products.
- Agency Liquor Stores are required to sell to all other persons at or above the posted price. The agent may establish a mark-up for their retail price.
- Agency Liquor Stores have weekly deliveries.
- The Department supplies a quarterly price book with the various classes, varieties and brands of liquor for sale with the state's posted price.
- Agency Liquor Stores have 60 days from the date of invoice to pay for liquor purchased from the State Liquor Warehouse.



Cases Distributed to Agency Liquor Stores

The Liquor Control Division maintained inventories at the state liquor warehouse on more than 1,300 liquor and fortified wine products during fiscal year 2012. Another 2,000 liquor and fortified wine products are available on a case-by-case basis.

Over the past ten fiscal years, cases shipped from the state liquor warehouse have increased by more than 47 percent, from 489,925 in fiscal year 2003 to 722,313 in fiscal year 2012.

MONTH	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
July	54,879	60,561	59,206	59,415	54,717
August	58,549	55,005	58,352	63,485	70,912
September	44,634	51,052	53,402	58,330	54,031
October	56,381	64,143	55,713	54,406	60,717
November	61,942	49,284	60,647	57,532	61,901
December	66,524	68,904	65,495	66,833	69,054
January	40,463	40,598	38,578	40,725	47,622
February	46,292	45,015	45,064	49,442	52,917
March	48,674	53,263	55,813	59,664	57,699
April	48,758	50,621	48,610	48,504	57,050
May	55,400	51,987	55,754	59,051	67,174
June	58,312	63,038	63,595	65,445	68,519
TOTAL	640,808	653,471	660,229	682,832	722,313

Liquor Distribution Revenues and Transfers

The Liquor Control Division distributed \$26.9 million to the State General Fund and \$5.8 million to the State Special Revenue Fund in fiscal year 2012.

	FY2008	FY2009	FY2010	FY2011	FY2012
Gross Sales	\$98,600,000	\$102,300,000	\$102,700,000	\$106,000,000	\$113,400,000
Agents Total Commissions and Discounts	\$12,100,000	\$12,600,000	\$12,600,000	\$13,100,000	\$14,000,000
Operational Expenses	\$1,600,000	\$1,500,000	\$1,700,000	\$1,600,000	\$1,900,000
Net Profits	\$8,775,000	× \$7,250,000	\$9,000,000	\$9,000,000	\$9,500,000
Taxes Transferred	\$20,333,300	\$21,107,495	\$21,159,116	\$21,792,181	\$23,223,137

× **House Bill 5** – 2009 Legislative Session provided \$1.75 million of profits to renovate the current liquor warehouse. This will extend the useful life of the warehouse to more than 20 years as the state's liquor sales continue to grow.

Types of Revenue

Liquor wholesale operations generate two types of revenue: Taxes and Profits.

Taxes

Taxes are included in the sale price of each product. The tax is collected when the product is sold from the warehouse and payment is made from the agency liquor stores. The tax is then transferred to either the General Fund or State Special Revenue Fund. The taxes are washed through Liquor Enterprise Fund.

Profits

The standard mark-up applied to most liquor products is 40%; however, the 2011 legislative session allowed for a reduced mark-up of 20% on liquor products that have been manufactured, distilled, rectified, bottled or processed by a distillery that produces 25,000 proof gallons or less of liquor nationwide annually.

The mark-up in essence pays for the liquor distribution warehouse operations and the commission rates and discounts provided to the agency liquor stores. The remaining profits are then transferred to the general fund.

Liquor Education

Liquor Education includes a wide variety of educational efforts designed to educate and inform sellers/servers, distributors, manufacturers of alcoholic beverages, law enforcement officials, city/county attorney's, the justice community and the general public, on topics such as the safe and responsible consumption of alcohol, sales and service of alcoholic beverages and enforcement of the liquor code.

Duties and responsibilities include:

- Oversee the Responsible Alcohol Sales and Service Act.
- Manage the state's responsible alcohol sales and service training program called *Let's Control It*.
- Provide technical assistance to local law enforcement officials, city/county attorneys and the justice community.

